



**Peggy
Livingston/ENF/R8/US
EPA/US**

08/21/2007 12:37 PM

To "'Kevin Murray'" <kmurray@chapman.com>
cc Kathryn Hernandez/EPR/R8/USEPA/US@EPA,
Mark.Elmer@usdoj.gov, randall@chapman.com,
"Kerry Gee" <kcgee@unitedpark.com>
bcc Sandy Fells/OCF/R8/USEPA/US@EPA
Subject RE: RD/RA CD - Richardson Flat

Kevin: Following up on my email from yesterday about the EPA policy not to share drafts of our press releases with parties we are suing, I don't know what the EPA position would be on outside parties sharing their draft press releases with us. I'm checking with our Office of Communication on that. I would say that even if UPCM shares its draft press release with EPA, I doubt that we could call it a joint UPCM-EPA press release, because that would not sound consistent with the EPA policy of not negotiating with outside parties any EPA decision on issuing or wording a press release.

At any rate, as soon as I know anything about when the CD is lodged with the court, I'll let you know.

Peggy Livingston
Senior Enforcement Attorney
1595 Wynkoop Street
Denver, CO 80202-1129
303-312-6858 (phone)
303-312-7202 (fax)

Please note new street address and fax number.

"Kerry Gee" <kcgee@unitedpark.com>



"Kerry Gee"
**<kcgee@unitedpark.co
m>**

08/21/2007 11:00 AM

To "'Kevin Murray'" <kmurray@chapman.com>, Peggy
Livingston/ENF/R8/USEPA/US@EPA
cc Kathryn Hernandez/EPR/R8/USEPA/US@EPA,
<Mark.Elmer@usdoj.gov>, <randall@chapman.com>
Subject RE: RD/RA CD - Richardson Flat

We are going to be a little more proactive to inform the press on what is going on. I will circulate to Kathy, Peggy and Mark through Kevin to be sure that the form is proper for EPA.

The only reason would be to properly inform the press of what is happening. They run with it if we don't and we will get a flurry of phone calls and bad sound bites on the local radio station. They will interpret what is going on rather than have factual information.

Thanks

Kerry

-----Original Message-----

From: Kevin Murray [mailto:kmurray@chapman.com]

Sent: Tuesday, August 21, 2007 9:49 AM

To: Livingston.Peggy@epamail.epa.gov

Cc: Hernandez.Kathryn@epamail.epa.gov; Mark.Elmer@usdoj.gov;
randall@chapman.com

Subject: Re: RD/RA CD - Richardson Flat

No, but Kerry will, I will ask him.

On Aug 21, 2007, at 9:37 AM, Livingston.Peggy@epamail.epa.gov wrote:

> Do you remember which newspapers or other media went crazy? And
> one of these days I hope to remember to take off attorney-client
> privileged when emailing you!

>
> Peggy Livingston
> Senior Enforcement Attorney
> 1595 Wynkoop Street
> Denver, CO 80202-1129
> 303-312-6858 (phone)
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> Kevin Murray
> <kmurray@chapman
> .com>

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> Peggy
> 08/20/2007 05:05 Livingston/ENF/R8/USEPA/US@EPA

>

> PM cc

> Kathryn
> Hernandez/EPR/R8/USEPA/US@EPA,
> Mark.Elmer@usdoj.gov,
> randall@chapman.com

> Subject

Re: RD/RA CD - Richardson Flat

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> We can do the release, I just need to know before it happens. The
> past cost CD caused PR problems because the Press went crazy that UPK
> had been sued by EPA.
> On Aug 20, 2007, at 4:58 PM, Livingston.Peggy@epamail.epa.gov wrote:
>
>> Attorney-Client Privileged
>> Attorney Work Product
>>
>> Thanks for your message. I'd assumed that the FR notice
>> Mark is
>> drafting would mention a public comment period. I don't know whether
>> there are plans for EPA or DOJ to do a press release. EPA has a
>> policy
>> of not sharing draft press releases with the parties we are suing. I
>> assume you were thinking of one that UPCM would do on its own.
>>
>> Peggy Livingston
>> Senior Enforcement Attorney
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>> 303-312-7202 (fax)
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>> Please note new street address and fax number.
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>> Kevin Murray
>> <kmurray@chapman
>> .com>
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>> o
>> Peggy
>> 08/20/2007 04:51 Livingston/ENF/R8/USEPA/US@EPA
>>
>> PM cc
>> randall@chapman.com,
>> Mark.Elmer@usdoj.gov, Maureen
>> OReilly/ENF/R8/USEPA/US@EPA,
>> Kathryn
>> Hernandez/EPR/R8/USEPA/US@EPA
>>
>> Subject
>> Re: RD/RA CD - Richardson Flat
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>> I apologize, I do not know what I was thinking . . . doing too many
>> things at once ignore my last comment. Please give me a heads up on
>> the date you intend to lodge . . . we need to do a press release or
>> we have issues with the papers reporting that UPK has been sued.
>> On Aug 20, 2007, at 4:11 PM, Livingston.Peggy@epamail.epa.gov wrote:
>>
>>>
>>> Kevin & Bret:
>>>
>>> Thank you for sending the CD with Kerry Gee's signature, and
>>> thank
>>> you for adding the missing page to Appendix F.
>>>
>>> Mark told me that he expects the CD will be lodged later this
>>> week. We have obtained the signatures of the EPA and DOJ
>>> representatives, and Mark is forwarding it the US Attorney's office
>>> for
>>> signature.
>>>
>>> In answer to your question about Paragraph 103, I agree that
>>> the
>>> effective date is the date entered by the court. The language was
>>> taken
>>> from par. 114 of the model RD/RA CD. I don't know why the model
>>> has the
>>> extra phrase "except as otherwise provided herein."
>>>
>>> Here is the version that is now being sent to the US
>>> Attorney's
>>> office for signature.(See attached file: rdracdaug20th2007.doc)
>>>
>>>
>>> Here is a comparison of the version that has been signed for
>>> EPA
>>> and DOJ and the version that I emailed you on June 8th. As you can
>>> see,
>>> the only changes are (1) corrections to spacing, (2) updating the
>>> table
>>> of contents, including adding a missing entry, Sec. XXVII, and (3)
>>> a new
>>> Acting Assistant AG. Also, in version circulated for signatures
>>> for the
>>> United States, the map that is Appendix B shows one line in red,
>>> which
>>> did not show up in color in the copy you emailed me. We'll send
>>> you a
>>> color copy.
>>>
>>> (See attached file: comparerdracdaug20tojune8.doc)
>>>

>>> Peggy Livingston
>>> Senior Enforcement Attorney
>>> 1595 Wynkoop Street
>>> Denver, CO 80202-1129
>>> 303-312-6858 (phone)
>>> 303-312-7202 (fax)
>>>
>>> Please note new street address and fax number.
>>> <rdracdaug20th2007.doc>
>>> <comparerdracdaug20tojune8.doc>
>>
>> Kevin R. Murray
>> Chapman and Cutler LLP
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>> 801-320-6754
>> kmurray@chapman.com
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